



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,928	07/26/2005	Alison Mary Rice	12339120 (18679)	2829
23389 7590 09/24/2007 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER DUTT, ADITI	
			ART UNIT 1649	PAPER NUMBER
			MAIL DATE 09/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,928	<b>Applicant(s)</b> RICE ET AL.	
	<b>Examiner</b> Aditi Dutt	<b>Art Unit</b> 1649	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, drawn to a method for generating blood dendritic cells from CD34<sup>+</sup> precursor cells.

Group II, claim(s) 8-10, 12-20, drawn to a method of generating antigen presenting dendritic cells that are capable of activating a population of T cells *in vitro*.

Group III, claim(s) 8-9, 11-20, drawn to a method of generating antigen presenting dendritic cells that are capable of activating a population of T cells *in vivo*.

Group IV, claim(s) 21-24, drawn to a method for inducing a protective immune response by administering a composition comprising antigen presenting dendritic cells to a subject.

2. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:  
Group I recites the special technical feature of a method for generating blood dendritic cells from CD34<sup>+</sup> precursor cells, which is not required by the other methods of Groups II-IV. Claim 1 is anticipated by prior art. Bontkes et al. (J Leukocyte Biol. 72: 321-329, 2002) teach the generation of dendritic cells *in vitro* from CD34<sup>+</sup> haematopoietic progenitor cells, comprising expansion of CD34<sup>+</sup> cells in the presence of growth factors such as Flt3-L and SCF (page 322, Materials and Methods). The reference further teaches the presence of CD33 and CD11c expressing cells, indicating the precursors are of myeloid origin, (Table 2). Therefore, claim 1 lacks a special technical feature and cannot share one with the other claims.

Art Unit: 1649

Group II recites the special technical feature of generating antigen presenting dendritic cells that are capable of activating a population of T cells *in vitro*, which is not required by the other methods of Groups I and III-IV.

Group III recites the special technical feature of generating antigen presenting dendritic cells that are capable of activating a population of T cells *in vivo*, which is not required by the other methods of Groups I-II, IV.

Group IV recites the special technical feature of inducing a protective immune response by administering a composition comprising antigen presenting dendritic cells to a subject, which is not required by the other methods of Groups I-III.

### 3. Species Election

#### A) Peptide

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a) Human protein
- b) Pathogen protein
- c) Protein derived from a cancer cell

The claims are deemed to correspond to the species listed above in the following manner:

#### Claim 13

The following claim(s) are generic: 8

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the above protein molecules have characteristically different amino acid sequences and distinct

mechanism of action from one another. For example, the special technical feature of (a) is Human Protein. This special technical feature is not shared by the other species.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

#### B) Pathogen

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The 11 species are as follows:

Viruses, bacteria.....amoebae

(Please refer to claim 14 for a complete list)

The claims are deemed to correspond to the species listed above in the following manner: Claim 14

The following claim(s) are generic: 13

Art Unit: 1649

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the above pathogens have unique proteins involved in distinct mechanism of action and pathogenesis of diseases. For example, the special technical feature of Virus is not shared by the other pathogens.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

#### C) Autoimmune disease

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Addison's disease.....Wegener's Granulomatosis

(Please refer to claims 20 and 22 for a complete list. **It is noted by the Examiner that claim 22 is identical to claim 20).**

The claims are deemed to correspond to the species listed above in the following manner: Claims 20, 22

The following claim(s) are generic: 19, 21

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the above autoimmune disease have distinct pathology and the protective immune response would involve varying levels of success. For example, the special technical feature of Addison's Disease, is not shared by the other autoimmune diseases.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. In response to this Office Action/Election requirement, applicant must elect one from Groups I-IV, and must additionally elect a species of peptide, pathogen and autoimmune disease.

Art Unit: 1649

5. Applicant is advised that in order for the reply to this requirement to complete it must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. 1.143).
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48 (b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 C.F.R. 1.48(b) and by the required under 37 C.F.R. 1.17(l).

***Advisory Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditi Dutt whose telephone number is 571-272-9037. The examiner can normally be reached on M-F.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 1649

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AD  
27 August 2007

/Gary Nickol/

Gary Nickol  
Supervisory Patent Examiner, Art Unit 1646